



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE **B. PUGALENDHI**

Crl.OP(MD)No.10951 of 2021

Elangamani : Petitioner/Accused Rank Not Known

Vs.

State rep. by
The Inspector of Police,
Seevalaperi Police Station,
Tirunelveli District.
Cr.No.94 of 2021

: Respondent/Complainant

PRAYER: Petition filed under Section 439 of the Criminal Procedure Code seeking a direction to enlarge the petitioner on bail in connection with the case in Crime No.94 of 2021 on the file of the respondent police.

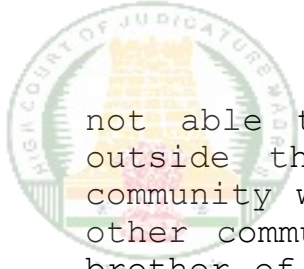
For Petitioner : Mr.M.S.Jeyakarthik

For Respondent : Mr.T.Senthilkumar
Government Advocate
(Crl. Side)

ORDER

The petitioner, who was arrested for the offence punishable under Sections 147, 148, 294(b), 109, 302, 307, 506(ii) & 120B IPC in Crime No.94 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that there is a dispute between two communities with regard to offering pooja in Sri Seevalapperi Sudalaimadasamy Temple. There was an arrangement between these communities as to the sharing of income realized from running shops and in performing other activities. It is seen from the FIR that the income generated from running shops inside the temple premises would go to one particular community and the income generated from performing other activities, viz., laying Paran and running shop outside the temple, etc., would go to the other community. Due to corona pandemic situation, the other community is



not able to perform the work of laying paran, running the shop outside the temple, etc., but the defacto complainant and his community were able to run the shops and earn money. Therefore, the other community people got annoyed and wanted to do away with the brother of the defacto complainant, who is a Poosari in the temple. In view of the motive, on 18.04.2021, at about 06.00 pm, the accused Thangapandi, Petchikutty, Mahesh and Murugan, indiscriminately attacked the deceased with Aruval, one Natarajaperumal intervened and questioned why they were attacking Chidambaram. He was also attacked with Aruval. All the four accused indiscriminately attacked Chidambaram with Aruval, as a result, the said Chidambaram died and Natarajaperumal suffered serious injuries. Hence, the complaint.

3. Learned Counsel for the petitioner submits that the petitioner, a village headman, was falsely implicated through the confession statement of the sixth accused and he is languishing in the prison from 22.04.2021. He further submits that the accused nos.3 to 6 are Juveniles and they were enlarged on bail. The accused nos.12 & 17 were also enlarged on bail by the Sessions Court, Tirunelveli. The petitioner is an innocent and has not committed any offence as alleged by the respondent police. Hence, he prays for bail.

4. Learned Government Advocate (Crl. Side) strongly opposed for granting bail. He submits that for running shops in the temple, the deceased was brutally attacked by the accused persons. The deceased in this case suffered 29 injuries all over his body and considering the brutal attack, this Court by earlier order dated 18.06.2021, dismissed the bail application filed by this petitioner in Crl.OP (MD)No.7764 of 2021. Thereafter, he filed another bail application before this Court in Crl.OP(MD)No.8631 of 2021. But, by suppressing the dismissal of the earlier bail application and the filing of the second bail application, the petitioner filed a bail application before the Court of Sessions in Cr.M.P.No.3712 of 2021 and obtained an order of bail. Taking note of the same, this Court issued a direction to the Principal Sessions Court, Tirunelveli, on 05.07.2021 to cancel the bail granted to the petitioner. As per the orders of this Court, the learned Sessions Judge has also cancelled the bail granted in favour of the petitioner on 09.07.2021. Now the petitioner has moved this third bail application before this Court.

5. Heard the learned Counsel appearing on either side and perused the documents placed on record.

6. The petitioner was originally arrested in connection with the case in Crime No.94 of 2021 on 23.04.2021. By taking out a plea that he has been affected by Covid-19, he was enlarged on interim bail by the Court of Sessions on 30.04.2021. Thereafter, he surrendered before the Superintendent of Central Prison on 01.06.2021 and moved an application for bail before this Court in Crl.OP(MD)No.7764 of 2021. This Court, by order dated 18.06.2021,



dismissed the application. Thereafter, he filed another application for bail before this Court in Crl.OP(MD)No.8631 of 2021 on 22.06.2021. When the second application was filed and pending before this Court, simultaneously, on the very same day, he filed a similar application for bail before the Court of Sessions, suppressing the dismissal of the earlier petition by this Court in Crl.OP(MD)No.7764 of 2021 and the filing and pendency of the second petition before this Court in Crl.OP(MD)No.8631 of 2021.

7. From the report of the learned Principal District Judge, Tirunelveli, dated 09.07.2021, it is seen that the petitioner, in the application filed before the Court of Sessions, in Cr.M.P.No.3712 of 2021, in paragraph no.9, the petitioner has specifically stated that "no other similar petition for bail was filed, pending or dismissed by the Honourable High Court, Madurai Bench". Even at the time of enquiry before the Sessions Court on 02.07.2021, neither the Counsel for the petitioner nor the Public Prosecutor has stated about the bail application dismissed by this Court in Crl.OP(MD)No.7764 of 2021 and the pendency of the second bail application before this Court in Crl.OP(MD)No.8631 of 2021. Therefore, the learned Sessions Judge, by order dated 02.07.2021, granted bail to the petitioner. This Court took cognizance of the same in Crl.OP(MD)No.8631 of 2021 and by order dated 05.07.2021, directed the learned Sessions Judge to cancel the bail already granted to the petitioner in Cr.M.P.No.3712 of 2021 on 02.07.2021. Accordingly, the same was cancelled by order dated 09.07.2021. Thereafter, the petitioner appears to have surrendered and filed this third bail application before this Court. This application is moved without even referring the date of his surrender, after the orders of the learned Sessions Judge.

8. The occurrence had taken place due to a commercial dispute and the deceased was brutally attacked by the accused. All the accused said to have conspired to eliminate the deceased and in the brutal attack, the deceased has sustained 26 injuries all over his body and died on the spot. One Natarajaperumsal was also attacked by the accused in the occurrence. The offence is of very serious in nature and the substantial portion of the investigation is yet to be completed.

9. Considering the facts and circumstances of the case, nature of offence, the fact that there is no change in circumstances and more particularly, the conduct of the petitioner, this Court is not inclined to grant bail to the petitioner.



10. Accordingly, this criminal original petition stands dismissed.

sd/-
12/08/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
- 2 THE INSPECTOR OF POLICE
SEEVALAPERI POLICE STATION,
TIRUNELVELI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.10951 of 2021
Date :12/08/2021

SP/JC/SARI/24/08/2021/ 4P / 4C